

Judge Bryan

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA,

Plaintiff,

v.

JUAN ALEXANDER VIANEZ,
a/k/a Nauj,

Defendant.

NO. CR09-5065RBJ

GOVERNMENT'S SECOND
SUPPLEMENTAL SENTENCING
MEMORANDUM

The United States of America, by and through Jenny A. Durkan, United States Attorney for the Western District of Washington, and Ye-Ting Woo and Matthew Thomas, Assistant United States Attorneys for said District, files this second supplemental sentencing memorandum.

I. GUIDELINES CALCULATIONS

The government met with the Probation Office and concurs with the Probation Office's sentencing guidelines calculations which results in a corresponding advisory range of 210 to 262 months of imprisonment. The following are the guideline calculations as determined by the Probation Office:

Count 1: Sex Trafficking

Base Offense Level: 0

Adjusted Offense Level 0

Count 2: Interstate Transportation of a Minor for Purposes of Prostitution

Base Offense Level, U.S.S.G. §2G1.3(a)(3)	28
Specific Offense Characteristic, U.S.S.G. §2G1.3(b)(2) (falsification of name and date of birth)	+2
Specific Offense Characteristic, U.S.S.G. §2G1.3(b)(3)(B) (use of computer)	+2
Specific Offense Characteristic, U.S.S.G. §2G1.3(b)(4) (commission of sex act)	+2
<u>Adjusted Offense Level</u>	<u>34</u>

Count 3: Interstate Transportation for Purposes of Prostitution

Base Offense Level, U.S.S.G. §2G1.1(a)(2)	14
Specific Offense Characteristic, U.S.S.G. §2G1.1(b)(1)(B) (physical harm and coercion)	+4
Obstruction, U.S.S.G. §3D1.4	+2
<u>Adjusted Offense Level</u>	<u>20</u>

Count 4: Witness Tampering

Base Offense Level, U.S.S.G. §2J1.2	14
Specific Offense Characteristic, U.S.S.G. §2J1.2(1)(B) (physical injury to obstruct justice)	+8
Specific offense Characteristic, U.S.S.G. §2J1.2(2) (substantial interference with administration of justice)	+3
<u>Adjusted Offense Level</u>	<u>25</u>

Grouping, U.S.S.G. §3D1.4

Count 1 - Adjusted Offense Level 0	+0
Count 2 - Adjusted Offense Level 34	+1
Count 3 - Adjusted Offense Level 20	+0
Total Number of Units	<u>1</u>

Count 4 is grouped with Count 3 pursuant to U.S.S.G. §3D1.2 as it involved substantially the same harm as the obstruction enhancement in Count 3.

Greater Adjusted Offense Level	34
Increase in Offense Level	0

TOTAL OFFENSE LEVEL 36

1 With respect to the defendant's sentencing guideline calculations, the defendant
 2 utilized U.S.S.G. §2G1.1 for Count 2, rather than §2G1.3, which is the correct provision
 3 for interstate transportation of a *minor* in furtherance of prostitution.

4 **II. DEFENDANT'S MENTAL STATE**

5 As directed by the Court, the government has communicated with the Chief
 6 Psychiatrist at FDC SeaTac, who will be available for testimony and to provide the Court
 7 with information concerning the defendant's mental state exhibited while in custody at
 8 the FDC. Based on the government's conversations with the Chief Psychiatrist, it is the
 9 government's belief that the defendant's behavior preceding the previously scheduled
 10 sentencing hearing on September 17, 2010, was not the product of any mental disease or
 11 defect, and that he is malingering and is competent to fully participate in the sentencing
 12 hearing.

13 DATED this 22nd day of September, 2010.

14 Respectfully submitted,
 15 JENNY A. DURKAN
 United States Attorney

16 s/ Ye-Ting Woo
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 Assistant United States Attorney
 Washington State Bar Association No.

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CERTIFICATE OF SERVICE

I hereby certify on September 22, 2010, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the attorney of record for the defendant.

s/ Ye-Ting Woo

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